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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 BRIAN NORFOLK, and GRIPCASE LLC, a) No. 13-850
10 Washington limited liability company,)
11 Plaintiffs,)
12 v.) COMPLAINT
13 KOSHI ELECTRONICS OF AMERICA LLC,)
a Georgia limited liability company)
14 Defendant.)

15 For its complaint, Plaintiffs Brian Norfolk (“Norfolk”), as patentee, and Gripcase USA,
16 LLC (“Gripcase”) Norfolk’s exclusive licensee, by and through their undersigned counsel, bring
17 an action for infringement of U.S. Design Patent D668,660 (“ the ‘660 Patent”) against
18 Defendant Koshi Electronics of America LLC (“Koshi”). Plaintiffs allege as follows:

19 **PARTIES**

20 1. Plaintiff Norfolk is a Washington resident and the inventor and owner of the ‘660
21 Patent entitled “Protective Cover for Tablet Computer” and issued on October 9, 2012. A true
22 copy of the ‘660 Patent is attached to the Complaint and marked Exhibit A.

23 2. Gripcase is a Washington limited liability company having a principal place of
24 business in 3911- 112th St SE Everett, Washington 98208. Norfolk is the president of Gripcase.

25 3. On information and belief, Koshi is a limited liability company formed under the
26 laws of Georgia and having a principal address of 292 Granite Way, Newnan, Georgia 30265.

COMPLAINT -- 1

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4. On information and belief, Koshi operates an online retail business selling computer accessory products through its website found at <http://www.koshistore.com>.

5. On information and belief, Koshi sells its computer accessory products to other online retailers, one of which, Zulily, Inc., (“Zulily”) is headquartered in Seattle, Washington.

6. On information and belief, Koshi regularly and systematically does business with residents in the state of Washington and in this judicial district.

7. On information and belief, Koshi regularly and systematically does business with residents in the state of Washington and in this judicial district, including selling products to residents of the forum through Zulily's interactive website found at <http://www.zulily.com/e/koshi-electronics-032313.html?pos=1>.

JURISDICTION AND VENUE

8. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338 because of Koshi's regular and systematic contacts with businesses and/or residents in Washington.

9. Venue is proper in the district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because of Koshi's regular and systematic contacts with businesses and/or residents within this judicial district.

PERTINENT FACTS

10. The sole claim of the ‘660 Patent is “the ornamental design for a protective cover for table computer, as shown.”

11. The “Description” section of the ‘660 Patent describes figures (Fig.) 1-8 of various views of the protective cover for a tablet computer. Representative drawings (Figs. 1-4) of the claimed design are reproduced below:

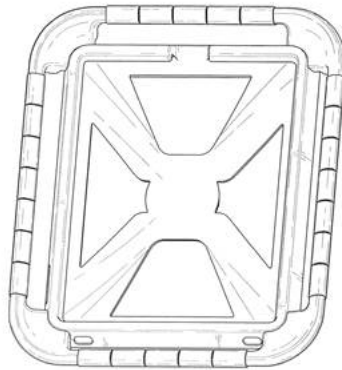


Fig. 1

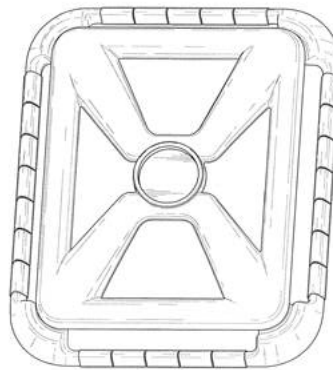


Fig. 2

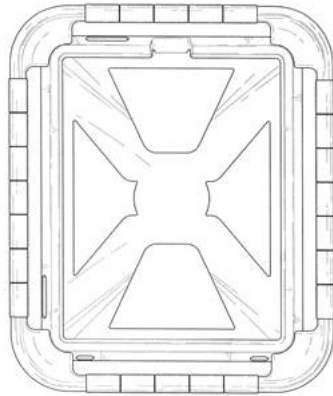


Fig. 3

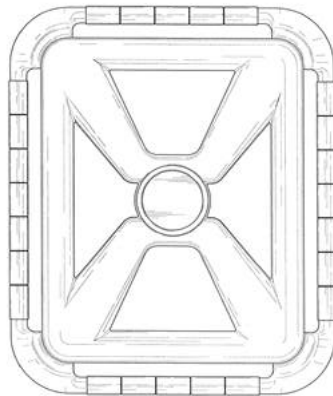


Fig. 4

12. Gripcase, as Norfolk's exclusive licensee, sells protective covers for tablet computers on the Gripcase website found at www.gripcase-usa.com covered by the '660 Patent¹.

13. Upon information and belief, Koshi imports and sells a product called Koshi Kid Case for iPad/iPad mini (part no. APKC0332) ("Koshi Kid Case") through its website found at

¹ Norfolk also filed a co-pending utility patent application that was published at 2012/0300394 on November 29, 2012 and covers the functional aspects of Norfolk's protective cover for a tablet computer, but has not yet examined. One or more claims of the published utility patent application read on the Koshi Kid Case product. Norfolk will amend or file a motion to leave to amend the Complaint to add a claim for infringement of a utility patent that matures from the underlying application that published as 2012/0300394 and, if applicable, also add a claim for provisional rights under 35 U.S.C. § 154(d).

1 http://www.koshistore.com/product_p/apkc0332.htm, and these products are available for
2 purchase wherever the internet is accessible, including in this judicial district. The Koshi Kid
3 Case is a either a direct copy of the '660 Patent or, at a minimum, a colorable imitation of the
4 '660 patented design.



17 14. At least as of April 26, 2013, Zulily offered for sale the Koshi Kid Case for sale
18 found on the Zulily website <http://www.zulily.com/brand/koshi-electronics.html?pos=1> . Images
19 of the various Koshi Kid Case color versions as offered for sale on the Zulily site are reproduced
20 below:



COMPLAINT -- 4

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FIRST CLAIM FOR RELIEF

INFRINGEMENT OF '660 DESIGN PATENT

15. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 14.

16. An ordinary observer would be deceived into thinking that the Koshi Kid Case was the same as the '660 Patent design which constitutes design patent infringement.

17. Koshi has directly infringed the '660 Patent by making, using, selling, offering to sell and/or import the Koshi Kid Case into the United States pursuant to 35 U.S.C. § 271(a).

18. Koshi has induced others to infringe the '660 Patent by providing infringing Koshi Kid Cases to distributors, dealers, customers and/or others and provided information how to use the Koshi Kid Case pursuant to 35 U.S.C. § 271(b).

19. Koshi's actions have been without the express or implied license from Plaintiffs.

20. As a result of the Koshi's infringement of the '660 Patent, plaintiffs have been and will continue to be damaged and are entitled to be compensated for damages pursuant to 35 U.S.C. § 284 in an amount to be determined at trial.

21. Further as a result of Koshi's infringement of the '660 Patent, plaintiffs are entitled to an additional remedy of Koshi's lost profits for design patent infringement pursuant to 35 U.S.C. § 289.

22. Plaintiffs will continue to suffer damage by the infringing actions taken by Koshi unless Koshi is permanently enjoined from importing, selling, and offering for sale the Koshi Kid Case within the United States and its territories.

COMPLAINT -- 5

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1 **JURY TRIAL DEMAND**

2 Plaintiffs Norfolk and Gripcase demand trial by jury on all issues to triable.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs Norfolk and Gripcase pray for relief as follows:

5 1. A judgment that Defendant Koshi has infringed the '660 Patent.

6 2. A judgment and order permanently restraining and enjoining Defendant Koshi
7 and its directors, officers, servants, employees, attorneys, and those persons acting in concert or
8 participation with Defendant who receive actual notice of the Order by personal service, from
9 using the ornamental design for a protective cover for a tablet computer claimed in the '660
10 Patent; or any other reproduction, counterfeit, copy colorable limitation or confusingly similar
11 variation of the ornamental design for a protective cover for a tablet computer claimed in the
12 '660 Patent.

13 3. That Plaintiffs be awarded damages in the amount of its lost profits, but in any
14 event no less than a reasonable royalty pursuant to 35 U.S.C. § 284.

15 4. That Defendant account for its profits and be ordered to disgorge its profits to
16 Plaintiffs pursuant to 35 U.S.C. § 289.

17 5. That the Defendant be ordered to pay Plaintiffs any prejudgment interest on all
18 sums allowed by law.

19 6. And that Plaintiffs be awarded such other and further relief as the Court may
20 deem equitable and proper.

1 DATED this 14th day of May, 2013.

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COMPLAINT -- 7

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